

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR
9004-2(c)**

M. Cabrera & Associate, P.C.

Matthew M. Cabrera, Esq.
2002 Route 17M, Suite 12
Goshen, New York 10924
Telephone: 845-531-5474
Facsimile: 845-230-6645
Counsel for Debtor, Fabricia DeMelo

In Re:

Fabricia DeMelo,

Debtor.

Chapter 13

Case No. 18-11555 (SLM)

**CERTIFICATION OF COUNSEL IN OPPOSITION TO CREDITOR'S APPLICATION
FOR EARLY TERMINATION OF LOSS MITIGATION TIME PERIOD**

Debtor, Fabricia DeMelo, by and through their counsel, M. Cabrera & Associates, P.C., hereby objects to the Application of Bank of New York Mellon seeking the early termination of the Debtor's participation in the Loss Mitigation Program as filed with the Court on August 31, 2018 as follows:

1. On April 12, 2018, the Order Granting Approval to Participate in the Court's Loss Mitigation Program.
2. In accordance with procedures of the Loss Mitigation Program, the Debtor has made adequate protection payments to Bayview Loan Servicing in the approximate amount of \$3,600.
3. All loan modification submissions have been sent to the servicer of the loan, Bayview Loan Servicing ("Bayview"). No representatives of Bank of New York Mellon have contacted the Debtor or counsel concerning the status of loan modification negotiations.
4. From April to July, the Debtor submitted, and often resubmitted documents to Bayview Loan Servicing in connection with various requests.

5. In connection with her participation in the Loss Mitigation Program, on July 24, 2018, the Debtor filed an application with the Court for an extension of the Loss Mitigation period, as Bayview had represented to counsel that it was considering a resubmission of the Debtor's document submission.
6. There were no objections to the Debtor's request for an extension of loss mitigation, either by Bank of New York Mellon or Bayview Loan Servicing.
7. On August 1, 2018, the Court entered an Order extending the loss mitigation time period to October 9, 2018.
8. Both prior to, and since the entry of the Order extending Loss Mitigation, the Debtor has continued to make all required Adequate protection payments to Bank of New York Mellon as required under Section 78(B) of the Loss Mitigation Program and Procedures.
9. The Debtor has continued to submit documents to the following representative of Bayview Loan Servicing: John Koscinski, Asset Manager, Asset Management.
10. In its request for early termination of loss mitigation, Bank of New York Mellon stated it attached the denial letter to its application. No such letter was attached.
11. Regardless, the Debtor appealed Bayview's denial of her initial loan modification application. The appeal was another submission package which included updated and revised documents. The Debtor is waiting on a response from Bayview regarding her most recent submission.
12. The Debtor has and continues to participate in the Loss Mitigation Program in good faith and Mr. Koscinski has communicated verbally and in written communications to counsel for the Debtor that Bayview Loan Servicing will consider her resubmitted and revised package that was included with the appeal.
13. Prior to any termination of the Loss Mitigation, Bayview should conduct a meaningful review of the Debtor's resubmitted package; the Court must allow the parties the necessary time to bring the loan modification process to a proper conclusion, rather than allow Bank of New York Mellon to shortcut the process.

14. The Debtor respectfully submits that once Bayview considers her application based on her actual current monthly income, it will determine that she qualifies for a loan modification under its guidelines.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of these statements are willfully false, I am subject to punishment.

M. CABRERA & ASSOCIATES, PC
Attorneys for Debtor Fabricia DeMelo

/s/ Matthew M. Cabrera

Matthew M. Cabrera, Esq.
2002 Route 17M, Suite 12
Goshen, New York 10924
Telephone: (845) 531-5474
Facsimile: (845) 230-6645

Dated: September 4, 2018
Goshen, New York